IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO.6975 OF 2004

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr.Dilip Bodake, for the Petitionrs
Mr.R.D.Rane,A.G.P.for Respondents

CORAM : F.I. REBELLO & S.P. KUKDAY,JJ.
DATED : 16TH FEBRUARY, 2005

P.C.

. Rule. Heard forthwith.

2. It is the case of the petitioners that the total holding of the co-parcner is 20 Acres and 290 Are. The names of the co-parcners have been set out in paragraph 3. The slab for the area as on the cutoff date 4th December, 1996 is 8 Acres. It is, therefore, submitted that subsequent death of the Karta their father Kashinath Rama Jamdade on 10th July, 1986 the names of the co-parcners have been shown in the survey records. Learned Counsel relies on the Circular issued in the name of Commissioner, Pune Region under No.Rehabilitation/KV/1/2178/98 issued by

the Regional Commissioner, Pune Region, Pune dated 20th June, 1998 to contend that the holding of each co-parcner had to be considered for the purpose of calculating the slab. It is submitted that this has not been taken into consideration and consequently the declaration under Section 6 will have to be quashed and set aside atleast in so far as they are concerned.

3. On the other hand on behalf of the Respondents learned A.G.P. points out that it is not possible to know whether the said Circular has been issued by the Government and if not whether it is still in force.

4. Be that as it may, considering the objection as raised the ends of justice will be met if the declaration under Section 6 in so far as the petitioners' land which are identified under Gat No.1100 admeasuring 2 Hector 63Are is set aside, which is accordingly set aside. The matter is remanded to the Respondent No.2 to rehear the petitioners objections as set out in the petition as also the contentions advanced on behalf of the respondents and thereafter to proceed according to law. Needless to say that on behalf of the petitioners their learned Counsel is making

a statement that if the objections are rejected they will not raise any objection as to limitation in issuing the declaration under Section 6 or passing the Award. Statement accepted. Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO, J.)

(S.P. KUKDAY, J.)